

Applicants : Marinus Gerardus Johannus Van Beuningen
and Tim Kievits
Appl. No. : 10/526,261
Filed : March 1, 2005
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REMARKS

Claims 1-20 are pending in the subject application. By this amendment, Claims 1, 4, 6-10, 12 and 14-17 have been amended. Applicants maintain that the amendments do not raise an issue of new matter. Support for the amendment to Claim 1 can be found at least on page 4, lines 19-20 of the application as filed. Support for the amendment to Claim 17 can be found at least in Claim 1. Support for the other amendments can be found at least in the previous version of the claims. Accordingly, entry of the amendments is respectfully requested.

Information Disclosure Statement

The Examiner indicated that the Information Disclosure Statement filed on March 1, 2005 fails to comply with 37 CFR §1.98(a)(3) because it does not include a concise explanation of the relevance of EP 1 186 669 A1, which is written in the German language. In reply, applicants note that EP 1 186 669 A1 was cited in the International Search Report issued in connection with PCT/EP03/09980. The present application is the U.S. national stage of PCT/EP03/09980. EP 1 186 669, however, was not cited in the subsequently issued PCT International Preliminary Examination Report. Copies of both the PCT Search Report and PCT International Preliminary Examination Report were submitted with the filing of the subject application.

In addition, applicants maintain that EP 1 186 669 relates to a general method for the specific determination of DNA-sequences by means of parallel amplification using nested polymerase chain reactions in a combined liquid-/solid-phase DNA-microarray system and modifications resulting there from for the determination of, for example, point mutations and for sequencing partial DNA regions. EP 1 186 669 relates to an "on-chip" amplification method; wherein in contrast, the present invention provides the combination of specific variant primers immobilized on a substrate to allow point-mutation detection in a sample analyte. Applicants maintain that EP 1 186 669 does not

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in any way relate to substrates with an inner porous structure wherein small-volume reactions take place.

Applicants would like to direct the Examiner's attention to US Patent Application Publication No. US 2004/0048270, which is listed on attached Form PTO/SB/08A and which claims priority of European Patent Application No. 00119182.4, which published as EP 1 186 669.

Objections to Claims 4-16

Claims 4-16 are objected to under 37 CFR §1.75(c) as being in improper form because a multiple dependent claim may not depend from another multiple dependent claim. The claim dependencies have herein above been amended to obviate this objection.

Rejections under 35 U.S.C. §112, 2nd paragraph

Claims 17-20 are rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject-matter which the applicant regards as the invention. The Examiner indicated that Claim 17 is incomplete because the claim does not recite what is to be amplified.

Claim 17 has herein above been amended to recite that the amplification components are for amplifying analyte nucleic acid molecules. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejections under 35 U.S.C. §102(b)

Claims 1-3 and 17-20 are rejected under 35 U.S.C. §102(b) as anticipated by Mikhailovich et al. (WO 01/34842).

Applicants respectively traverse this rejection.

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Applicants maintain that WO 01/34842 relates to PCR amplification within gel pads on a microchip. The gel pads are surrounded by a hydrophobic liquid which separates the individual gel pads into environments which resemble micro-miniaturized test tubes. At least one of the primers is immobilized in the gel pad. As described in WO 01/34842 on page 4, lines 20-21, a "gel pad" is "gel matrix units that form a microchip" and a "gel matrix" is a "composition such as polyacrylamide gel." Applicants maintain that a composition such as polyacrylamide gel is a gelatinous preparation that is not comparable with the solid porous substrate used in the presently claimed invention. Applicants further note that WO 01/34842 discloses on page 14, lines 12-14 that "[t]he capacity of the gel pads for immobilization exceeds the capacity of solids, such as a glass surface, by two orders of magnitude." Thus, WO 01/34842 clearly teaches away from using a solid substrate. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Declaration and Power of Attorney

Applicants submit hereto a Declaration (2 pages) and Power of Attorney (2 pages) in connection with the subject application.

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CONCLUSIONS

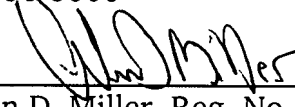
In view of the amendments and remarks made herein above, reconsideration and withdrawal of the objections and rejections set forth in the June 19, 2007 Office Action and passage of the pending claims to allowance are respectfully requested. If there are any minor matters preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

No fee is deemed necessary in connection with the submission of this response. However, if any fee is required with this reply or to maintain the pendency of the subject application, authorization is hereby given to withdraw the amount of any such fee from Deposit Account No. 01-1785.

Respectfully submitted,

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New York, New York

By 
Alan D. Miller, Reg. No. 42,889